THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

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WRIT PETITION No.23483 OF 2006

Dated 12th April 2007

Between:

Sri Shanker Gupta & others

…Petitioners

and

The Special Cadre Deputy Registrar/Liquidator,
M/s.Krushi Co.op.Urban Bank Litd.,
Ranigunj, Secunderab & another.

…Respondents

THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY

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O R D E R:

The petitioners are account holders in Krushi Co-operative Urban Bank Limited (for short "the bank"). All of them have made fixed deposits of different amounts, ranging from Rs.16,000/- to Rs.1,00,000/-, in the years 2000 and 2001. By the time the deposited amounts were withdrawn, or the FDRs matured, the Bank went into liquidation. Petitioners presented their claims before the Special Cadre Deputy Registrar-cum-Liquidator, the 1st respondent herein, appointed for the bank. The latter, in turn, forwarded the claims of the petitioners and several other depositors to the Deposit Insurance and Credit Guarantee Corporation, the 2nd respondent herein. The 2nd respondent had arranged for payment of the deposits to various subscribers, to the tune of about Rs.15,00,000/-

. The petitioners, however, were not paid any amount. This writ petition is filed with a prayer to declare the action of the respondents, in not paying the FDRs to the petitioners, as illegal, arbitrary and violative of Article 14 of the Constitution of India, apart from Sections 16 and 17 of the Deposit Insurance and Credit Guarantee Corporation Act, 1961 (for short "the Act").

The 1st respondent filed counter affidavit stating, *inter alia*, that the claims of the petitioners were presented before the 2nd respondent, and they are awaited. Reference is made to various proceedings that ensued, in the context of similar claims.

The 2nd respondent filed counter affidavit, narrating the events that have taken place, ever since the bank went into liquidation. It is admitted that the 1st respondent had forwarded the claims of the petitioners. However, it is stated that the further steps could not be taken, on account of the fact that the audited balance sheet and profit and loss account, as on 16.10.2001, were not furnished to them by the 1st respondent, in spite of several demands. It is stated that petitioners 7, 8 and 9 did not make any deposits in the 1st respondent bank, and as such, they cannot be treated as depositors under Section 2(g) of the Act. As regards the deposits made by the petitioners 1 to 6, it is stated that necessary action would be taken, as soon as the audited balance sheet is made available.

Heard Sri T.S.Praveen Kumar, learned counsel for the petitioners, Sri N.Rajeswar Rao, learned Standing Counsel for 1st respondent, and Sri M.P.Ugle, learned counsel for the 2nd respondent.

The 1st respondent bank went into liquidation. It is covered by the provisions of the Act, and in terms thereof, the 2nd respondent is under obligation to clear the liability towards the depositors, who held accounts as on the date, on which the bank went into liquidation. For one reason or the other, the names of the depositors were sent in instalments. On account of the situation that prevailed in view of the liquidation and the unrest in the depositors, the 2nd respondent was arranted for disbursement of about Rs.15 crores. It is not in dispute that the names of petitioners 1 to 6 find place in the list forwarded by the 1st respondent. Their claims were not cleared by the 2nd respondent, on the ground that the audited balance sheet was not furnished. It is contended on behalf of the 1st respondent that it is just impossible to present the audited balance sheet, at this stage, since the entire records were seized and presented before various courts.

When the 2nd respondent did not find any difficulty, in processing the claims of several depositors, without the production of the audited balance sheet, there is no justification for insisting on the same, for petitioners 1 to 6. The same kind of verification, as was done in case of the other depositors, whose cases were cleared, can be undertaken, in respect of petitioners 1 to 6 also. So far as claims of petitioners 7, 8 and 9 are concerned, they stand on a different footing, and no directions can be issued, at this stage, since their names are not found in the list of depositors, as on the date of liquidation. The claims need to be verified further

For the foregoing reasons, the writ petition is disposed of, directing the 2nd respondent to process and clear the claims of

petitioners 1 to 6, if necessary, by calling for any additional information from the 1st respondent, but without insisting on production of audited balance sheet, up to the date of liquidation. This exercise shall be completed within a period of four weeks, from the date of receipt of a copy of this order. The 2nd respondent shall be under obligation, to consider the cases of

petitioners 7, 8 and 9, if only their names figure in the list of approved depositors, as on the date of liquidation, and not otherwise. There shall be no order as to costs.

12th April 2007

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